

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 00-0093P**

Gross Income Tax  
For Calendar Year 1998

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer provides loans, equipment financing, and leasing to commercial businesses. It primarily leases construction and transportation equipment. Taxpayer files a federal consolidated 1120 income tax return with its non-insurance affiliates.

Taxpayer was assessed a penalty for failing to pay the full amount of tax due by the due date.

Taxpayer was audited for calendar years 1994 through 1997. At audit, an examination of the taxpayer's federal income tax returns revealed that it did not satisfy the requirement as stated in IC 6-5.5-1-17(d)(2)(B). Taxpayer did not meet the definition of a financial institution. Taxpayer's federal income tax returns revealed that less than eighty percent (80%) of its income was derived from activities listed in IC 6.5.5-1-17. Specifically, line 6 (gross rents) of the federal return showed rental income of between forty-nine percent (49%) and sixty percent (60%) of total income.

During the above referenced audit, taxpayer filed an IT-20 for calendar year 1998 in accordance with the audit and paid twenty-five thousand dollars (\$25,000) with its extension to file request. The estimated payment was made after the original due date of the return. Under IC 6-8.1-10-2.1(d), a ten percent (10%) penalty will be assessed when the taxpayer fails to pay the full amount of taxes due by the due date. Payment was not made until after the due date of the return.

I. **Tax Administration**— Penalty

**DISCUSSION**

Taxpayer was assessed a late payment penalty because it made an estimated payment after the due date of the return.

Taxpayer, in a letter dated February 1, 2000 protested penalties assessed and states it has reasonable cause. Taxpayer states it calculated its 1998 liability with best available estimates each quarter. The estimates considered the 1997 operating loss carryforward to 1998 and it did not expect to have any tax due for 1998. In June 1999, due to an audit, it was determined that the taxpayer should have been filing form IT-20 instead of FIT-20 at which time it once again estimated its 1998 tax and remitted a payment of \$25,000.

Taxpayer, however, did not make payment until after the original due date of the return. Late payment of state income taxes results in late payment penalties. Taxpayer has not shown reasonable cause to allow the department to waive the late payment penalty.

**FINDING**

Taxpayer's protest is denied.